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EXAMINER

REDMAN, J

ART UNIT

PAPER NUMBER

3634

DATE MAILED:

11/05/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

69/351,502

Applicant(s)

REPP

Examiner

JEDDY PERMAN

Group Art Unit

3634

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 7/12/99
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 2-32 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 2-32 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3
- ☒ Notice of References Cited, PTO-892 ✓
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 2-32 are rejected under the judicially created doctrine of double patenting over claims 1-71 of U. S. Patent No. 5,551,197 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: an articulated window assembly comprising a glass sheet, an opaque coating on the glass sheet, a hinge mounted to an adhesive which is mounted to the opaque surface such that the hinge is hidden from view.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

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Claims 2-32 are further rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, line 1, it is not readily apparent to the Examiner if the applicant is claiming an articulated window panel or an articulated window panel in combination with a vehicle. In claim 2, line 3, the applicant clearly and positively recites the vehicle. If the applicant intends to claim the combination then the applicant must clearly and positively recite the vehicle in the preamble. In claim 20, lines 1-2, it is not readily apparent to the Examiner if the applicant is claiming an articulated window panel or an articulated window panel in combination with a window opening of a vehicle and a latch. In claim 20, line 4, the applicant clearly and positively recites a window opening of the vehicle (assuming there is no other window opening or no other vehicle). In claim 20, line 6, the applicant clearly and positively recites a latch (assuming there is not other latch). If the applicant intends to claim the combination of the window opening of a vehicle and a latch, then the applicant must positively recite the window opening of a vehicle and a latch in the preamble. In claim 20, line 1, it appears that "A" first occurrence should be --An--.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 2-32 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Hill et al in view of Gotanda et al. Hill et al disclose an articulated vertical window panel comprising a glass sheet (12) having an inner surface (44) and outer surface (26), a hinge mounting area on said inner surface (44), a hinge (40) bonded to the hinge mounting area, a latch (16) bonded to a latch mounting area, and an adhesive joining the hinge and latch to the inner surface (44). Hill et al fail to disclose a glass sheet to be at least 250 square inches and providing the hinge and latch to be hidden from the outer surface. Gotanda et al disclose a glass panel having an opaque coating (9) attached to the inner surface of a glass panel and a mounting element (5a) adhesively mounted to the coating. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the panel of Hill et al with an opaque coating as taught by Gotanda et al since an opaque coating allows the mounting elements to be hidden from outside of the panel thereby providing a more aesthetic appearance from outside of a vehicle. It would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the panel of Hill et al to be 250 square inches, a mounting area to be no greater than about 1.6% of the outer surface area of the sheet, the bonding area to be at least two square inches, and the hinge aspect ratio to be at least one since these are merely design choices and would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the dimensions of the hinge and panel to provide a maximum pivotal efficiency for opening and closing of the panel.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patents to Lapine and Kunert disclose elements similar to that of the applicants invention.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number (703) 308-2168.

  
JERRY REDMAN  
PRIMARY EXAMINER  
GROUP 3600